

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MARCH 1, 2011

CALL TO ORDER/NOTING OF QUORUM

Chairman Massa called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Sturtz and Commissioner Guthrie. Executive Secretary Dunsmore and Superintendent Huskey were also in attendance.

Angela Krahulik, Jeff McKean, Debbie Rolfsen, Bart Herriman, Matt Brace, and Grant Monahan were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the February 15, 2011 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the March 1, 2011 meeting. Commissioner Sturtz seconded. The motion was unanimously approved.

DL50-27313 FAMILY EXPRESS, INC. – Hearing Judge Dunsmore stated this was a recommended denial of a new permit by the local board. The Commission upheld that denial. The applicant filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation to overturn the denial and approve the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners. Commissioner Guthrie seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for catering. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a Commissioner as appropriate for escrow. Commissioner Guthrie seconded. The motion was unanimously approved.

Four hundred seventy-two (472) permits approved for renewal, forty-seven (47) new and/or transfer permits approved, twelve (12) permit approved for catering, nine (9) permits approved for first year escrow, six (6) permits approved for second year escrow, three (3) permits approved for third year escrow and one (1) permit approved for fourth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Commissioner Guthrie seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR29-98193 DON PABLO'S OPERATING, LLC & RR29-93286 APPLE INDIANA II, LLC- Commissioner Guthrie stated these permits are located in Westfield, but have Carmel addresses. When the permits were issued, the ATC mistakenly placed the permits on the Carmel quota. The permittees were notified of the error.

Commissioner Guthrie moved to make the correction and place these permits on the Westfield quota. Commissioner Sturtz seconded. The motion was unanimously approved.

RR53-90283 HA & SER VENTURES, INC., D/B/A JAPANESE ON WALNUT – Commissioner Guthrie noted this is a type 112 renewal. The permittee failed to show at three local board meetings as required.

Commissioner Guthrie moved to deny the renewal. Commissioner Sturtz seconded. The motion was unanimously approved.

DL29-27548 LD VENTURES, INC., D/B/A THE GRAPEVINE COTTAGE – Commissioner Guthrie noted this is a new type 115 application with the local board voting three (4) to zero (0) to approve.

Commissioner Guthrie stated the local board based this recommendation on a permit from a couple of years ago that was denied, but overturned on appeal. The question was whether or not this establishment qualified as a grocery store. The Hearing Judge found that even though the amount of groceries sold was a small percentage compared to alcohol sales, the dollar amount sold (between \$200,000 and \$300,000) was significant enough to qualify as a grocery.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR60-84358 CLUB 42, INC. – Commissioner Guthrie noted this is a type 209 renewal application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the food figures provided by the permittee are not enough to qualify for a type 209 permit.

Commissioner Guthrie moved to uphold the local board and deny the renewal. Commissioner Sturtz seconded. The motion was unanimously approved.

RR29-27153 RB & MAS, LP, D/B/A DOUBLE APPLE LOUNGE – Commissioner Guthrie noted this is a new type 209 application with the local board voting two (2) to one (1) to disapprove.

Commissioner Guthrie stated this appears to have some fairly complicated issues and thought the Commission might need more time to look into this application.

Commissioner Guthrie moved to table this application until the March 15, 2011 meeting. Commissioner Sturtz seconded. The motion was unanimously approved.

RR49-24057 GLADYS BOTINA, D/B/A HOOKA LOUNGE – Commissioner Guthrie noted this is a type 111 renewal application with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie stated the Indianapolis Metropolitan Police Department remonstrated against the permit due to numerous criminal violations and police runs to the establishment.

Commissioner Guthrie moved to uphold the local board and deny the renewal. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR02-00467 BPO ELKS #155 - Commissioner Guthrie stated this permit is currently a type 211-1 club permit. The permittee requests the Commission convert it to a type 210 restaurant permit.

Commissioner Guthrie moved to approve the conversion. Commissioner Sturtz seconded. The motion was unanimously approved.

INACTIVE FILES

INACTIVE FILES- Vice Chairman Johnson moved to make sixty-two (62) permits inactive. Forty-five (45) permits are not subject to auction and seventeen (17) permits are subject to auction. Commissioner Sturtz seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

DL29-27548 LD VENTURES, INC., D/B/A THE GRAPEVINE COTTAGE – Attorney Angela Krahulik asked the Commission for a point of clarification regarding this matter. She spoke with Staff Attorney Melissa Coxey and was told that there was no audio recording of the local board. Ms. Krahulik thought this was going to be remanded to the local board because of that.

Commissioner Guthrie mentioned he was aware there was no recording and that if there was an appeal, the attorneys could reconstruct the record from the local board. All of the exhibits that were presented are available.

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

NATIONAL CENTER FOR DISEASE CONTROL – Superintendent Huskey stated the Excise Police was contacted by the CDC regarding the Survey for Alcohol Compliance (SAC) Program. They wish to consider highlighting that program as a “Success Story” within the National Prevention Strategy to showcase effective prevention programs in the area of alcohol and other substance abuse.

The Commission voiced no concern regarding this matter and congratulated the Excise Police for their work on this program.

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

Approved this _____ day of _____, 2011.

MARK S. MASSA, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER